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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/504,939	02/16/2000	Christopher R. Stephens	ADT0001-US	6632
7590 02/25/2008 ADAPTIVE TECHNOLOGIES, INC. 25812 N. 67TH DRIVE PEORIA, AZ 85383				
EXAMINER FELTEN, DANIEL S				
ART UNIT		PAPER NUMBER		
3696				
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02/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/504,939

Applicant(s)

STEPHENS ET AL.

Examiner

DANIEL S. FELTEN

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-39, 46-61 and 67-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-39, 46-61 and 67-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. Receipt of the applicant's amendment filed 11/20/2007 is acknowledged. Claims 24-39, 46-61 and 67-76 are pending in the application and are presented to be examined upon their merits.

Response to Arguments

2. Applicant's arguments filed 11/20/2007 have been fully considered but they are not persuasive. References determining obviousness are not read in isolation but for what they fairly teach in combination with the prior art as a whole, thus patent assignee's reference-by-reference attack, particularly of Schutzer to demonstrate non-obviousness is not persuasive [see *In re Merck*, 231 USPQ 375 (CAFC)]. In this case the primary reference, Schulzer, discloses the use of intelligent agents for financial transactions, services accounting and advice. The secondary reference, Pollock, discloses architecture for an artificial agent that reasons defeasibly. The 35 USC 103(a) rejection previously set forth provided reasoning for the combination of references and resolve the level of ordinary skill in the art. The Examiner respectfully submits that the applicant can not show non-obviousness by attacking references individually, where as here the rejections were made based upon a combination of references. As to the discussion of management of agents, such teaching is suggested in the previous office action whereby the system provides a means for distributing artificial agents and financial recommendations are monitored. The failure of Schutzer creating a new agent and how it would be modified by the secondary reference was previously discussed and is identically addressed in this action where

creation of a new agent was being compared to an ability for the agent to change and be provided with to a new set of information which makes it behave differently.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 24-39, 46-61 and 67-76 rejected under 35 U.S.C. 103(a) as being unpatentable over Schutzer (US 5,920,848) in view of Pollock (US 5,706,406)

Schutzer discloses a consulting system, as in claims 24-30, that proves a means for distributing artificial agents (see “intelligent agent server site,” column 7, lines 26-33),

An agent factory monitors financial recommendations (see column 4, lines 27-40);

Having a graphic user interface (see GUI/Internet browser) that is *configured to display* recommendations/ reports/alarms (see column 7, lines 10-12; column 8, lines 55-61; and column 11, lines 26-47);

Schulter discloses that the users may modify the payment instructions of the artificial agent to be customized to their particular needs (see Schuler, column 3, lines 5-61), but fails to disclose creating a new artificial agent per se. Pollock discloses the fact that the replacement of

artificial agents are supplied by updated information to the agent which allows it to perform alternative functions (see Pollock, Abstract, column 2, lines 18+). Thus it would have been obvious for artisan to have considered that the ability for the artificial agent of Schutzer to be customized to fit the needs the customer would provide an essentially new artificial agent as discussed in Pollock because the artificial agent would be provided with information that would make it “behave” within predetermined levels or within required rules or criteria. Thus to create a new artificial agent would essential be to impart to it different or updated data when it failed to provide an expected outcome (see Pollack, column 1, lines 39+). Thus creating new agents is considered the ability of the artificial agent to “adapt” and change its behavior in new way by supplying the agent(s) new information as suggested by Schutzer (see column 3, lines 51-61).

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL S. FELTEN whose telephone number is (571)272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel S Felten
Primary Examiner
Art Unit 3696

/D. S. F./
Primary Examiner, Art Unit 3696
2/18/2008

/Daniel S Felten/
Primary Examiner, Art Unit 3696